



House of Representatives

General Assembly

File No. 203

January Session, 2007

Substitute House Bill No. 7178

House of Representatives, March 29, 2007

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WATER COMPANY INFRASTRUCTURE PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) For purposes of this section:
- 2 (1) "Eligible projects" means those water company plant projects not
- 3 previously included in the water company's rate base in its most recent
- 4 general rate case and that are intended to improve or protect the
- 5 quality and reliability of service to customers, including (A) renewal or
- 6 replacement of existing infrastructure, including, but not limited to,
- 7 mains, valves, services, meters and hydrants that have either reached
- 8 the end of their useful life, are worn out, are in deteriorated condition,
- 9 are or will be contributing to unacceptable levels of unaccounted for
- 10 water, or are negatively impacting water quality or reliability of
- 11 service if not replaced; (B) main cleaning and relining projects; (C)
- 12 relocation of facilities as a result of government actions, the capital
- 13 costs of which are not otherwise eligible for reimbursement; and (D)

14 purchase of leak detection equipment or installation of production
15 meters and pressure reducing valves.

16 (2) "Department" means the Department of Public Utility Control.

17 (3) "Infrastructure assessment report" means a report filed by a
18 water company with the department that identifies water system
19 infrastructure needs and the company's criteria for determining the
20 priority for eligible infrastructure projects.

21 (4) "Pretax return" means the revenue necessary, after deduction of
22 depreciation and property taxes, to produce net operating income
23 equal to the water company's weighted cost of capital as approved by
24 the department in the company's most recent general rate case
25 multiplied by the new original cost of eligible projects.

26 (5) "Reconciliation adjustment" means the difference between
27 revenues actually collected through the water infrastructure and
28 conservation adjustment and the amount allowed under the WICA for
29 that period for the eligible projects. The amount of revenues
30 overcollected or undercollected through the adjustment will be
31 recovered or refunded, as appropriate, as a reconciliation adjustment
32 over a one-year period commencing on April first.

33 (6) "Water Infrastructure and Conservation Adjustment (WICA)"
34 means an adjustment to water company customers' rates to recover the
35 WICA costs of eligible projects.

36 (7) "WICA costs" means the depreciation and property tax expenses
37 and associated return on completed eligible projects.

38 (8) "WICA revenues" means the revenues provided through a water
39 infrastructure and conservation adjustment for eligible projects.

40 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of Public
41 Utility Control may authorize a water company to use a rate
42 adjustment mechanism, such as a water infrastructure and
43 conservation adjustment (WICA), for eligible projects completed and

44 in service for the benefit of the customers. A water company may only
45 charge customers such an adjustment to the extent allowed by the
46 department based on the company's infrastructure assessment report,
47 as approved by the department and upon semi-annual filings by the
48 company which reflect plant additions consistent with such report. The
49 department and the Office of Consumer Counsel shall conduct the
50 proceeding pursuant to section 16-18a of the general statutes.

51 (b) On or before ninety days after the effective date of this section,
52 the department shall initiate a generic docket to determine what shall
53 be included in a water company's infrastructure assessment report and
54 annual reconciliation reports filed with the department in accordance
55 with subsections (c) and (k) of this section, provided the department
56 issues a decision on the docket not later than one hundred eighty days
57 after the filing of any such reports. The department may hold a hearing
58 to solicit input on the contents of the infrastructure assessment report
59 and the annual reconciliation report or on the criteria for determining
60 priority of eligible projects.

61 (c) The water company shall file the infrastructure assessment
62 report with the department and such report shall identify the water
63 system infrastructure needs and the company's criteria for determining
64 priority for eligible infrastructure projects. The department shall
65 address such criteria in its docket initiated pursuant to subsection (b)
66 of this section. Criteria shall include, but not be limited to: (1) Age,
67 material or condition of the facilities; (2) extent and frequency of main
68 breaks or interruption of service; (3) adequacy of pressure; (4) head
69 loss; (5) availability of fire flows; and (6) the potential impact of such
70 projects to improve system integrity and reliability.

71 (d) The department shall approve an infrastructure assessment
72 report upon determining that the company has demonstrated through
73 generally accepted engineering practices that (1) the infrastructure
74 projects considered for renewal or replacement are eligible projects; (2)
75 such projects will benefit customers by improving water quality,
76 system integrity or service reliability; and (3) they adhere to the criteria

77 established for determining priority for infrastructure projects. The
78 department may hold a hearing to solicit input on the company's
79 infrastructure assessment report provided a decision on the
80 assessment is made not later than one hundred eighty days after filing.
81 Any such report not approved, rejected or modified by the department
82 within such one-hundred-eighty-day period shall be deemed to have
83 been approved.

84 (e) The department shall not certify an infrastructure assessment
85 report or authorize a company to impose a rate adjustment pursuant to
86 subsection (a) of this section if the department determines the water
87 company is unwilling to provide safe, adequate and reliable service to
88 existing customers or if there is not a sufficient level of investment in
89 infrastructure.

90 (f) Notwithstanding the provisions of section 16-19 of the general
91 statutes, upon department approval of the infrastructure assessment
92 report, the company may charge the WICA for eligible projects in
93 addition to such company's existing rate schedule, pursuant to
94 subsection (g) of this section and to the procedures and customer
95 notification requirements in subsections (h) and (i) of this section.

96 (g) The adjustment shall be calculated as a percentage, based on the
97 original cost of completed eligible projects times the applicable rate of
98 return, plus associated depreciation and property tax expenses related
99 to eligible projects and any reconciliation adjustment calculated
100 pursuant to subsection (k) of this section as a percentage of the retail
101 water revenues approved in its most recent rate filing versus the
102 projected revenues for the regulated activities of said water company.

103 (h) Water companies may impose the surcharge for eligible projects
104 on customers' bills at intervals of no less than six months, commencing
105 on January first, April first, July first and October first each year. No
106 proposed WICA charge or credit shall become effective until the
107 Department of Public Utility Control has approved such charges or
108 credits pursuant to an administrative proceeding. Such administrative
109 proceeding shall be open to the public and shall be convened not later

110 than ten days after the filing of an application by a water company
111 requesting such a proceeding. The department shall receive and
112 consider comments of interested persons and members of the public at
113 such a proceeding, which shall not be considered a contested case for
114 purposes of title 4 of the general statutes, this section or any regulation
115 adopted thereunder. Any approval or denial of the department
116 pursuant to this subsection shall not be deemed an order,
117 authorization or decision of the department for purposes of section 16-
118 35 of the general statutes. Notwithstanding the provisions of this
119 section, if the department has not rendered an approval or denial
120 concerning any such application not later than fifteen days after the
121 day the administrative proceeding should have been convened, the
122 proposed charges or credits shall become effective at the option of the
123 company pending the department's finding with respect to such
124 charges, provided the company shall refund its customers any such
125 amounts collected from them in excess of the charges approved by the
126 department in its finding.

127 (i) Water companies shall notify customers through a bill insert or
128 other direct communications when the adjustment is first applied and
129 the WICA shall appear as a separate item on the customers' bills.

130 (j) The amount of the WICA applied between general rate case
131 filings shall not exceed seven and one-half per cent of the company's
132 annual retail water revenues and shall not exceed five per cent of such
133 revenues for any twelve-month period. The amount of the adjustment
134 shall be reset to zero as of the effective date of new base rates
135 approved pursuant to section 16-19 of the general statutes and shall be
136 reset to zero if the company exceeds the allowable rate of return by
137 more than one hundred basis points for any calendar year.

138 (k) On or before February fifteenth of each year, the company shall
139 submit to the department an annual reconciliation report through
140 December thirty-first of the prior year for any WICA applied to
141 customers' rates in the previous calendar year. Such reconciliation
142 report shall identify those projects that have been completed and

143 demonstrate that the WICA is limited to eligible projects that are in
144 service and used and useful as of the end of the calendar year. The
145 company shall indicate in its report if there have been any significant
146 changes in the extent of infrastructure spending, the priorities of
147 determining eligible projects or the criteria established in the
148 infrastructure assessment report. In addition, the reconciliation report
149 shall compare WICA revenues actually collected to the allowed
150 amount of the adjustment. If upon completion of the report the
151 department determines that the company overcollected or
152 undercollected the adjustment, the difference between the revenue and
153 costs for eligible projects will be recovered or refunded, as appropriate,
154 as a reconciliation adjustment over a one-year period commencing on
155 April first. The company shall refund the customers with interest for
156 any overcollection but shall not be eligible for interest for any
157 undercollection.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Various State Agencies	Various - See Below	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	See Below	See Below	See Below

Explanation

This bill authorizes the Department of Public Utility Control (DPUC) to allow water companies to implement certain rate adjustment surcharges. The extent to which these surcharges will be sought and approved may have an effect on the state and municipalities as water consumers. The extent to which an impact may occur, cannot be determined at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7178*****AN ACT CONCERNING WATER COMPANY INFRASTRUCTURE PROJECTS.*****SUMMARY:**

This bill authorizes the Department of Public Utility Control (DPUC) to allow a water company to use a rate adjustment mechanism (e.g., a surcharge) in the period between rate cases in order to recover the depreciation, property taxes, and related return for certain company capital projects that have been completed. The bill specifies how DPUC must establish such mechanisms and how they would work.

EFFECTIVE DATE: Upon passage

DPUC ESTABLISHMENT OF THE MECHANISM

Under the bill, a water company may only use the adjustment to the extent allowed by DPUC based on the company's infrastructure assessment report, as approved by DPUC, and semi-annual filings by the company that reflect plant additions consistent with the report. The bill requires DPUC, by 90 days after the bill's passage, to begin a generic proceeding to determine what must be included in the assessment report. The bill requires the report to identify the company's water system infrastructure needs and its criteria for determining which are priority projects. The proceeding must also specify the contents of an annual reconciliation report, described below. DPUC can hold a hearing to solicit input on the contents of these reports and on the criteria for determining project priority.

ELIGIBLE PROJECTS

To be eligible for the adjustment mechanism, a capital project (1) must not have been previously included in the water company's rate

base in its most recent rate case and (2) must be intended to improve or protect the quality and reliability of service. Eligible projects can include the:

1. renewal or replacement of existing infrastructure, such as, mains and valves, that have reached the end of their useful life, are worn out, are deteriorated, are or will be contributing to unacceptable levels of unaccounted-for water, or are harmful to water quality or reliability of service if not replaced;
2. main cleaning and relining projects;
3. main extensions to eliminate dead ends which harm water quality and reliability of service;
4. relocation of facilities as a result of government actions, when the capital costs are not otherwise eligible for reimbursement; and
5. water conservation projects such as purchasing leak detection equipment or installing production meters, pressure reducing valves, or stream gauging stations.

APPLICATION FOR THE ADJUSTMENT

A water company seeking to use the adjustment mechanism must file the assessment report with DPUC. The report must identify the water system's infrastructure needs and the company's criteria for determining priorities among eligible infrastructure projects. In the reviewing report, DPUC must address the criteria specified in its proceeding. DPUC's approval criteria must include: (1) the age, material, or condition of the facilities; (2) the extent and frequency of main breaks or interruption of service; (3) adequacy of pressure; (4) head loss; (5) availability of fire flows; and (6) the potential impact of the projects on system integrity and reliability.

DPUC APPROVAL

DPUC must approve a rate assessment report if the company

demonstrates through generally accepted engineering practices that (1) the projects are eligible under the bill; (2) they will benefit customers by improving water quality, system integrity, or service reliability; and (3) they adhere to the criteria established for determining priority for projects. But, DPUC cannot certify a report or allow a company to impose a rate adjustment if it determines (1) the company is unwilling to provide safe, adequate and reliable service to existing customers or (2) there is not a sufficient level of investment in infrastructure. DPUC may hold a hearing to solicit input on the infrastructure assessment report so long as it issues a decision within 180 days after the report is filed. If DPUC does not act on the report within this time, it is considered to have been approved.

The bill states that DPUC and the Office of Consumer Counsel must conduct the proceeding pursuant to existing law. This section deals with the retention of consultants by these agencies and it is unclear how it applies to this bill (CGS § 16-18a).

IMPOSITION OF THE SURCHARGE

Upon DPUC approval, the company can impose a rate adjustment. The adjustment must be calculated as a percentage, based on (1) the original cost of completed projects times the applicable rate of return, plus associated depreciation and property tax expenses related to the projects and (2) any reconciliation adjustment calculated as a percentage of the retail water revenues approved in the company's most recent rate filing versus the projected revenues for the regulated activities of said water company. The first part of the approach is similar to how DPUC sets rates in a rate case.

Water companies can impose the surcharge for eligible projects on customers' bills at intervals of no less than six months, starting on January first, April first, July first, and October first each year. No proposed charge or credit can become effective until DPUC has approved such charges or credits in an administrative proceeding. The proceeding must be open to the public and convened within 10 days after the filing of the company's application requesting the proceeding.

DPUC must receive and consider comments of interested persons and the public at the proceeding, which shall not be considered a contested case. DPUC's approval or denial is not considered a DPUC order, authorization, or decision and therefore the decision cannot be appealed to the courts. If DPUC has not approved or denied an application within 15 days after the day the administrative proceeding should have been convened, the proposed charges or credits become effective at the company's option, pending DPUC's finding with respect to the charges. In such cases, the company must refund its customers any amounts collected from them in excess of the charges approved by DPUC in its finding.

The amount of the adjustment applied between general rate case filings cannot exceed 7.5% of the company's annual revenues and 5% of revenues for any 12-month period. The amount of the adjustment must be reset to zero once new base rates are approved in a rate case or if the company exceeds its allowed rate of return by more than one percentage point for any calendar year. Water companies must notify customers through a bill insert or other direct communications when the adjustment is first applied and then it must appear as a separate item on the customers' bills.

RECONCILIATION REPORT

The bill requires affected water companies to submit to DPUC, by February 15 annually, an annual reconciliation report through December 31st for any adjustment applied to customers' rates in the previous calendar year. The report must identify those parts of projects that have been completed. It must demonstrate that the adjustment was limited to eligible projects that were in service and used and useful as of the end of the calendar year. In addition, the report must indicate whether there have been any significant changes in the amount of infrastructure spending, the priorities of determining eligible projects, or the criteria established in the report. The report must compare WICA revenues actually collected to the allowed amount of the adjustment.

If upon the completion of the report, DPUC determines that the company over-collected or under-collected the adjustment, the difference between the revenue and costs for eligible projects will be recovered or refunded, as appropriate, as a reconciliation adjustment over a one year period commencing on April 1st. The company must provide a refund to customers, with interest, for any over-collection but the company is not be eligible for interest for any under-collection.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/13/2007)